

United States District Court for the Northern District of Illinois

Case No.: 24-cv-4766

Judge: Honorable Martha M. Pacold

Defendant:

Jennifer Buckner, Owner of eBay Seller Account vintagelinen1

FACTUAL BACKGROUND

My name is Jennifer Buckner and I am submitting the following response to case 1:24-cv-04766

As a a hobby, I list a variety of household items on Ebay as a way to recycle them and earn a little extra money.

This has always been a small sideline for me I have held my ebay account since 2003 and sell under the name of vintagelinen1. My sales average \$400 per month with a monthly average profit of \$215

I have now been named as a defendant in this lawsuit because of a two items I sold, I have no reason to believe these items were counterfeit as they were sealed and had tags attached.

1. King Bed Sheets sold May 28th and shipped to North Carolina

2. Twin Duvet Cover sold June 7th and shipped to Montana

On August 9th I was informed by PayPal that my funds were begin held. As a result, they have refused to release \$275 of my money.

In addition on August 3rd I was notified by ebay that my listing was reported as being counterfeit as the items were already sold there was nothing for me to do regarding the listings. However, because of the algorithms ebay uses to serve up my listings my sales have dropped considerably. In August my sales were \$174.63 and my profit \$87.63. a decline of 41%

RELIEF REQUESTED

Plaintiff's malicious and scattershot approach to this litigation is unwarranted and is damaging to me. I request that Plaintiff be ordered to remove me as a defendant in this lawsuit and not bring any more actions against me related to the subject matter of this suit and that the Court order PayPal to remove the asset freeze on my funds held by it and release them to me immediately.

In addition, as set forth below, I am counterclaiming for the damages Plaintiff's actions have caused me, and I respectfully request the Court to order Plaintiff to pay those damages as set forth below.

I also request such further relief as the Court may determine to be necessary or appropriate.

Decrease in profits of \$128.00

Time spent researching and filing answer \$488.00

(8 x \$61.00 my hourly wage at my full time job)

PLAINTIFF IS NOT ENTITLED TO A TEMPORARY RESTRAINING ORDER THAT APPLIES TO ME

My understanding is that, among other things, under Rule 65 of the Federal Rules of Civil Procedure, a court must consider four factors in determining whether to grant preliminary injunctive relief (including temporary restraining orders): (1) whether the movant has a strong likelihood of success on the merits; (2) whether the movant would suffer irreparable injury without the injunction; (3) whether issuance of the injunction would cause substantial harm to the opposing party or others; and (4) whether the public interest would be served by the issuance of the injunction. For the reasons set forth below, I believe Plaintiff meets NONE of these criteria as applied to me.

THE PLAINTIFF DOES NOT HAVE A STRONG LIKLIHOOD OF SUCCESS ON THE MERITS IN MY CASE

I bought the BEDSHEETS in good faith from a retail outlet. When I bought them, they were in the original packaging sealed and unopened. Plaintiff has not made demonstrated in any way how a purchaser of the BEDSHEETS could have known or should have known that the BEDSHEETS were allegedly counterfeit.

After determining that I no longer wanted the BEDSHEETS I listed them on EBAY and sold

None of my co-Defendants is known to me and to the best of my knowledge I have never been in contact with any of them, nor the any of them with me, other than this lawsuit.

I believe that I will be able to offer persuasive evidence that I was an innocent, bona fide purchaser in good faith of the BEDSHEETS and that I sold the BEDSHEETS in good faith.

I further believe that I will be able to offer persuasive evidence that I am not, and never have been, part of a conspiracy with any of the co-Defendants as alleged by Plaintiff.

For these reasons, I do not believe that Plaintiff has demonstrated a strong likelihood of success on the merits.

PLAINTIFF HAS NOT DEMONSTRATED THAT IT WILL SUFFER IRREPERABLE HARM WITHOUT THE TEMPORARY RESTRAINING ORDER APPLYING TO ME

I am an extremely small participant in Ebays' marketplace, To my knowledge, I have never sold any other item [trademarked] by Plaintiffs, and they have certainly alleged that I have not. I have no intention of ever purchasing any products listed again nor any intent to sale them in the future.

**CONTINUATION OF A TEMPORARY RESTRAINING ORDER THAT APPLIES TO ME
WILL CAUSE SUBSTANTIAL HARM TO ME**

Because of Plaintiff's malicious and scattershot lawsuit, PayPal has frozen \$275 of my money, to which I am entitled and which is far in excess of any damages Plaintiff could reasonably assert.

Further, I must either cancel my arrangements with PayPal, which would cause me great harm because they are the payment processor of choice for all who participate in the EBAY marketplace, as well as other gig sites that I use for payment., or stop selling items on EBAY altogether, which would deprive me of a much needed method of disposing of unwanted goods and resultant proceeds.

**THE PUBLIC INTEREST WILL NOT BE SERVED BY CONTINUANCE OF A TEMPORARY
RESTRAINING ORDER THAT APPLIES TO ME**

If I can be swept up in such a far fetched lawsuit, so can anyone who innocently and in good faith buys an item at Walmart, Kroger, Amazon or any other retailer and who later decides to sell it on a nationally recognized third party marketplace like EBAY.

/s/ Jennifer Buckner

Jennifer Buckner

Electronic Signature

Printed Name

Email jdbuckner@earthlink.net

Contact

9/4/2024

Date